

Juvenile Defender Newsletter

Spring 2010

This newsletter is made possible through the Vermont Court Improvement Program with federal funding from the U.S. Administration for Children and Families.

* If you get all the way to the end of this newsletter there should be a cartoon...

Youth Participation in Court Hearings

In an effort to determine the gains Vermont has made in increasing effective youth participation in child welfare court hearings, surveys were conducted last fall, with 192 people responding to the second survey following the October 28 conference. Results showed that 52% of the respondents were in agreement that there was a clear expectation that children attend court hearings, 36% noted they always involved youth in the court process and 52% noted involvement "when appropriate".

The youth Focus Group indicated that, while the experience could be uncomfortable or 'scary', they were glad they were able to attend and participate in court hearings because it helped them better understand what was going on. Youth noted that, when speaking in court, they felt 'listened to' by the judge, which they identified as very important.

The benefits of including children in court hearings noted in aspects of this study included:

- a. better fact finding by the court leading to better decision-making,
- b. children having an improved sense of control over their lives, heightened self-esteem, and feeling empowered at a time when they are otherwise very powerless, and
- c. all parties retain a focus on the object of the hearing - the child - who is most significantly impacted by the outcome.

In at least one of the Family Courts the judge is insisting that juveniles over the age of fourteen appear at Family Court proceedings, including permanency reviews. Under 33 V.S.A. 5307(c)(1) "The child [shall be present at the temporary care hearing], unless the child is under ten years of age and the presence of the child is waived by the child's attorney. For good cause shown, the court may waive the presence of a child who is ten years of age or older." Additionally, under 33 V.S.A. 5523(c) "If the court finds that it is in the best interest and welfare of the child, the child's presence may be temporarily excluded, except while a charge of delinquency is being heard at the hearing on the petition."

Kate Piper is working on putting together cards for kid's attorneys and GALS similar to the ABA's Center on Children and the Law's Judicial Bench Cards for Engaging Children of all Ages in the Courtroom. There are lots of good ideas here. One set of suggestions for Engaging Youth in the Court Process is directed at those children aged 12 -18 and the other set is directed towards school-age children, ages 5-11. Here are the two links:
<http://defgen.vermont.gov/sites/defgen/files/engagingyouthincourt.pdf>

http://defgen.vermont.gov/sites/defgen/files/ENGAGINGCHILDRENINCOURT_5-11_.pdf

Recent Case

In January the Supreme Court agreed with the Franklin Family Court affirming the dismissal of its petition to declare juveniles M.L. and Z.L. as children in need of care or supervision

(CHINS). The court relied on the burden of persuasion of the evidence and “concluded that the nonmedical evidence [stable marriage, father earned sufficient salary to allow mother to stay at home, no criminal records, no prior involvement with DCF or history of abuse in the family nor indication from parents’ neighbor, M.L.’s teacher or acquaintances, that abuse might have ever occurred] in this case was entitled to at least as much weight as the medical evidence, and that the State, as the moving party, therefore failed to meet its burden of persuasion.” This finding was in spite of testimony by medical experts who “testified that “Z.L.’s head injuries were so extensive and extreme that the only possible explanation for them was abusive head trauma.” The State also argued to no avail that it was held to an improperly high standard requiring that it corroborate its medical evidence with nonmedical evidence. The Supreme Court bolstered its position citing a 1926 case, *Livanovitch v. Livanovitch*, 99 Vt. 327, 328 stating that “the [preponderance] standard is satisfied “[w]hen the equilibrium of proof is destroyed, and the beam inclines toward him who has the burden, however slightly... A bare preponderance is sufficient, though the scales drop but a feather’s weight.” *In re M.L. & Z.L., Juveniles* 2010 WL 324444 (Jan. 29) <http://info.libraries.vermont.gov/supct/current/op2009-089.html>

Immigration Issues

Do you represent children and/or their parents involved in the child protection system who may be undocumented or have unknown status? Immigration issues are tricky. There are many ways in which your immigration status – whether you’re a green card holder or undocumented – can impact your ability to get a job, go to college, or even remain in the United States. The Immigrant Legal Resource Center has created a resource especially for immigrant youth which includes information on the 2009 federal requirements for obtaining Special Immigrant

Juvenile Status. Here is the link to their remedies for immigrant children page:

<http://www.ilrc.org/immigration-law/remedies-for-immigrant-children-and-youth.php>

Additionally on the Defender General website in the Immigration Section under Resources there is a lot more material on defending non-citizen juveniles.

Legislative Update

There has been virtually no action taken on S.159, an act relating to custodial interrogations of minors.

However, H.507, which allows for subsidized permanent guardianships, has passed out of the House and is presently before the Senate Health and Welfare committee. This act would amend 14 V.S.A. § 2664(a) adding in (6)(A)(ii) [That the proposed guardian] is financially suitable, with kinship guardianship assistance provided for in 33 V.S.A. § 4903 if applicable, to become the permanent guardian. Additionally the funding of permanent guardianships would be addressed in 33 V.S.A. § 4903(7) Providing aid to a child in the permanent guardianship of a relative if the child was in the care and custody of the department and was placed in the home of the relative for at least six months prior to the creation of the guardianship.

The Office of the Juvenile Defender is supporting the passage of H.749, An Act Relating to the Interstate Compact for Juveniles which would make Vermont a party to the updated uniform procedures, along with 35 other states, to safely have runaway juveniles returned to Vermont or have delinquent Vermont youth be appropriately supervised in or safely returned from other states.

Education Matters

By Steve Dale, DCF Commissioner

“Education is the key to a happy and healthy future. We have all heard that saying.” At some level we all believe it. But we don’t always act like we believe it.

Many of us have grown up believing deeply that education is a critical part of life for all children. We spend significant time reading to our children, teaching them basic skills at home in a fun way, making sure that they get settled into school successfully, attending school events of all kinds, reinforcing homework, etc. In many large and small ways, we convey that education is important and the success of our children in school is important.

We don’t always act the same way in our work with children who come into the court system. We know that the school completion rate for children in custody lags far behind the norm. We know that foster children often have to change schools repeatedly, preventing positive relationships and breeding discouragement. Often children in the foster care system are focused more on day to day survival and have few long-term aspirations. We don’t do enough to help them see it otherwise. We are often too busy with the rest of our “system work” to focus on education—some how it is the work of the school, not us.

I propose a substantial change in that thinking. All who have a formal role in the system—social workers, lawyers, GALs, judges, and others, have a responsibility to help those we work with know that they are important. Their success in school is important. They can achieve great things. They can have aspirations. There is a relationship between education and a future.

Specifically, I advocate the following:

Have a reminder on your desk—How is this young person doing in school?

Promote school continuity when a child changes living arrangements—our law allows that!

Insist that school records are transferred quickly to a new school.

Make sure that the child is settled in school. Talk to the teacher. Let her know you are concerned. Teachers are known to attend to the needs of a child more when there is an interested adult paying attention.

Expect that the child is going to do well in school—follow up when difficulties arise.

Consider attending a school activity.

Education is the key to a happy and healthy future. Let us all show that by our actions every day.

New study links child abuse, DNA damage

Researchers found that their subjects, who experienced childhood mistreatment, had shortened telomeres on their DNA strands, shorter than those found in otherwise similarly situated adults who did not experience childhood mistreatment. Telomeres are the “end-caps” of DNA strands, and their shortening is an indication of advanced cell aging. DigitalJournal.com

<http://www.digitaljournal.com/article/284493>

December 26, 2009

Crossover Youth

The term “crossover youth” refers to youth involved or at risk of being involved in both the child welfare and delinquency systems. The March 2010 issue of [*The Judges' Page*](#)

newsletter is dedicated entirely to cross-over or “dual-jurisdiction” youth.

This category of youth is receiving attention these days because in some states youth find themselves in two courts at the same time. Not so in Vermont, where child welfare, delinquency, and “status offenses” are handled by one system.

The term “status offense” covers running away, being incorrigible, being truant or drinking underage. The ABA Center on Children and the Law has a website with resources for attorneys representing youth on status offenses. Some resources include a reference sheet on Interstate Compact on the Placement of Children as applied to Status Offenses - see

http://new.abanet.org/child/PublicDocuments/ICPC_factsheet.pdf

There is guidance for attorneys representing status offenders who also have special education issues, particularly truant youth.

See

http://new.abanet.org/child/Pages/rjso_sea.spx.

There is also a new book on Representing Juvenile Status Offenders that can be downloaded at no charge. Chapter 2 is entitled, “What Social Science Tells Us about Youth Who Commit Status Offenses: Practical Advice for Attorneys.”

http://new.abanet.org/child/PublicDocuments/RJSO_FINAL.pdf

In Vermont, the Youth Assessment and Screening Instrument (YASI) tool is used to help identify risk factors for all youth who are the subject of a delinquency petition. Bennington Family Court is using the YASI

pre-screen tool to inform decisions about whether to refer the youth to Diversion. This approach may be used statewide in the future. Some courts are also using YASI in the context of CHINS cases, to screen runaway youth and truants on a case-by-case basis when the circumstances warrant. [DCF's policy](#) on YASI (Youth Assessment and Screening Instrument) as an evidenced-based risk and needs assessment and case planning tool is posted online.

http://dcf.vermont.gov/sites/dcf/files/pdf/fsd/policies/179_Youth_Risk_Assessment_Final_8_14_09.pdf

Youth now have more mental health issues

A new study has found that five times as many high school and college students are dealing with anxiety and other mental health issues as youth of the same age who were studied in the Great Depression era. The findings, culled from responses to a popular psychological questionnaire used as far back as 1938, confirm what counselors on campuses nationwide have long suspected as more students struggle with the stresses of school and life in general. Though the study does not provide a definitive correlation, SDSU psychology professor Jean Twenge and mental health professionals speculate that a popular culture increasingly focused on the external — from wealth to looks and status — has contributed to the uptick in mental health issues. (AP - January 11, 2010)

<http://www.sdn.com/sandiego/2010-01-11/health-fitness/study-youth-now-have-more-mental-health-issues>

Useful Links and Important Dates

Expanded Access to College Financial Aid for Former Foster Youth

http://dcf.vermont.gov/sites/dcf/files/pdf/fsd/pf/FAFSA_factsheet.pdf

This issue of Behavioral Sciences & the Law is devoted to adolescent sex offender research.

<http://www3.interscience.wiley.com/journal/3512/home>

- April 23 - April 25 Vermont Foster and Adoptive Family Association - 23rd Annual Spring Conference - Featured speakers include: Ross Greene, PhD, Michael Trout, Steve Lulek -Sheraton Conference Center, Burlington, VT
http://www.vfafa.org/event-spring_2010.htm
- May 13 2010 VT Family Network Conference – Access the Future Today, Sarah Vazquez, keynoter, Sheraton Hotel & Conference Center, South Burlington, \$60, contact 1-800-800-4005 or eventscoordinator@vtfn.org
- May 20 TIPS Training, Working with Youth pre-conference events, Rusty Clark, trainer, at Killington Grand Hotel, contact Vanessa Lang at 595-5159 or vlang@vffcmh.org
- May 21 Working with Youth Conference, Bill Grace, keynoter, at Killington Grand Hotel, contact kreigpinkham@comcast.net or 865-5202
- Sept 22 2010 Vermont Summit on Sexual Violence, sponsored by OUR House of Central Vermont, Lake Morey Inn, go to <http://summit.ourhousevt.org>

NOTE – See Fall 2009 newsletter for a list of the consequences of a juvenile or adult conviction developed by Pam Marsh in conjunction with the Bar Association.



SIPRESS

"How am I supposed to think about consequences before they happen?"